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April 24, 2013

VIA E-MAIL & PERSONAL DELIVERY

Ms. Leslie Blake, Remedial Project Manager
U.S. Environmental Protection Agency – Region 5
Superfund Division (SR-6J)
77 West Jackson Boulevard
Chicago, IL 60604-3590

Re: Reply to February 25, 2013 Special Notice Letter for the Gary Development Landfill
Site, 479 Cline Avenue, Gary, Lake County, Indiana
CERCLIS ID NO: IND077005916

Dear Ms. Blake:

This response to the February 25, 2013 Special Notice Letter for the Gary Development Landfill Site (the “Site”) issued by the U.S. EPA Region 5 (the “Agency”) is submitted on behalf of Union Tank Car Company (“UTC”). For the reasons stated below, UTC has decided not to extend a good faith offer in response to the Agency’s February 25, 2013 Special Notice Letter.

Based on an extensive records search and discussions with current and former UTC employees, UTC has not identified any basis on which UTC should be identified as a responsible party for the Site. Hundreds of documents from the relevant time period were reviewed, including waste approvals for the UTC East Chicago, Indiana Plant and copies of manifests for waste generated during the relevant time frame. None of the information found in UTC’s records indicates or identifies that UTC disposed of, arranged for disposal of, or transported any materials to the Site, including, but not limited to, any hazardous substances. UTC also reviewed both the documents which the Agency has provided regarding the Site and electronic copies of documents relating to the Site that were available on the Indiana Department of Environmental Management’s website. None of these documents provided any information that identified UTC as a responsible party for the Site. Further, UTC interviewed several of its current and former employees, all of which work or worked for UTC during the relevant time period and some of whom were employed by UTC since the 1970’s and continuing through the end of the relevant time period in 1999. The employees include persons who have general knowledge of all Union Tank Car Company operations during the relevant time period or worked in and/or had supervisory positions in shipping and receiving, repair services, field operations, and/or plant

engineering for UTC facilities in the Illinois and Indiana area. None of these employees had any knowledge concerning any shipments of UTC materials to the Gary Development Landfill.

The only document of which UTC is aware which mentions UTC in connection with the Site is a document provided to UTC's counsel by the U.S. EPA Region 5 and which the U.S. EPA Region 5 advised was the only "nexus document" regarding UTC in its possession. It is a copy of a letter dated March 6, 1981 from Sam Luri, Vice-President, Dombrowski and Holmes to Mr. Steve Wakefield of the Indiana State Board of Health, requesting permission to dispose of certain paint waste generated by UTC's plant located at 151st Railroad Ave., East Chicago, Indiana, known as "Plant 1," at the GDC Landfill. UTC has not found any document which refers or relates to this request for permission and has no information indicating that this request was granted or otherwise approved. A review of other documents produced by the U.S. EPA Region 5 also does not indicate that this request for permission to dispose of UTC waste at the Site was ever granted. However, other documents indicate that permission was not granted. One such document, entitled "Gary Development Company, Inc. Landfill," initiated by Matthew T. Klein, Hazardous Waste Section, Office of Enforcement, Indiana Department of Environmental Management, dated October 14, 1996, (denoted as "Reference 22" in the U.S. EPA Region 5 March 2012 FOIA production), at page 36, refers to the March 6, 1981 Dombrowski and Holmes request and states "[i]t is not clear if this approval was ever granted by ISBH." Dombrowski and Holmes also is not listed among the waste transporters to whom the U.S. EPA Region V issued a CERCLA 104(e) and RCRA 3007 Request for Information concerning the Site in February, 1992. (Id. At p. 95) Further, in the 1982 "Respondent's Answers to Petitioner's First Set of Interrogatories, Request for Admissions and Requests for the Production of Documents" by the Environmental Management Board of the State of Indiana" (denoted as "Reference 81" in the U.S. EPA Region 5 March 2012 FOIA production), at page 17, there is a list of all the "Special Permission Letters," described as "those letters issued by the State granting authority to dispose of hazardous or special wastes pursuant to 320 IAC 5-5-14) issued by the State to Gary Development Landfill]." Although this list does not identify the generating facility or the hauler, it does provide the date of the "Special Permission Letters" and the "waste type." All of the dates for these Special Permission Letters precede the March 6, 1981 Dombrowski and Holmes request, with the latest being January 14, 1981. Also, the "waste type" information does not refer to any "paint wastes," as described in the March 6, 1981 Dombrowski and Holmes request. It is reasonable to conclude that if a Special Permission Letter had been issued by the State to Dombrowski and Holmes in response to its March 6, 1981 request, it would have been in the State's possession in 1982 when it responded to these interrogatories. Thus, based on our review of all of the currently available information, there is no information indicating either that the March 6, 1981 Dombrowski and Holmes request was ever approved by the State or that any waste generated by the referenced UTC Plant 1 was ever disposed of at the GDC Landfill.

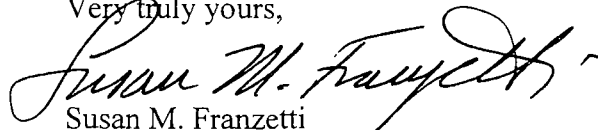
Because there is no evidence that UTC is a responsible party under CERCLA for this Site, UTC had decided not to offer to participate in addressing the Agency's demands set forth in the February 25, 2013 Special Notice Letter. As we hope is demonstrated from the above-

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described extensive effort UTC has devoted to responding to the Special Notice Letter, UTC did not reach this decision lightly. UTC has a record of participation and cooperation with the Agency in such matters where there is evidence showing that it is responsible party. Certainly, if the Agency becomes aware in the future of new information indicating that UTC sent any hazardous substances to this Site, UTC requests that it provide it with such information and UTC will re-consider its decision at that time.

If you have any questions or wish to discuss any of the above information further, please contact me.

Very truly yours,

A handwritten signature in cursive script, reading "Susan M. Franzetti".

Susan M. Franzetti
Counsel for Union Tank Car Company

Cc: David Herrin, UTLX